

Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 340

HOUSE BILL 2421

AN ACT

AMENDING SECTIONS 15-141 AND 15-341, ARIZONA REVISED STATUTES; RELATING TO
EDUCATIONAL RECORDS AND SCHOOL DISTRICT GOVERNING BOARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-141, Arizona Revised Statutes, is amended to
3 read:

4 15-141. Educational records; injunction; special action

5 A. The right to inspect and review educational records and the release
6 of or access to these records, other information or instructional materials
7 is governed by federal law in the family educational and privacy rights act
8 of 1974 (20 United States Code sections 1232g, 1232h and 1232i), and federal
9 regulations issued pursuant to such act.

10 B. In addition to the enforcement procedures provided in the family
11 educational and privacy rights act of 1974, the superior court may grant
12 injunctive or special action relief if any educational agency or institution
13 or an officer or employee of an agency or institution fails to comply with
14 the act regardless of whether the agency or institution is the recipient of
15 any federal funds subject to termination pursuant to the act or whether
16 administrative remedies through any federal agency have been exhausted.

17 C. Notwithstanding any financial debt owed by the pupil, the governing
18 board of a school district shall release to the department of juvenile
19 corrections all educational records relating to a pupil who is awarded to the
20 department of juvenile corrections within ten working days after the date the
21 request is received.

22 D. A juvenile court may require a school district to provide the court
23 with the educational records of a juvenile who is accused of committing a
24 delinquent or incorrigible act before the juvenile is adjudicated. The
25 educational records shall include the juvenile's cumulative file and
26 discipline file and, if applicable, records that are compiled pursuant to the
27 individuals with disabilities education act (P.L. 91-230; 84 Stat. 175; 20
28 United States Code section 1400) and the rehabilitation act of 1973 (P.L.
29 93-112; 87 Stat. 394; 29 United States Code section 794). The presiding
30 judge of the juvenile court shall adopt procedures for the transmission of
31 the educational records from the school district to the juvenile court. The
32 disclosure of the educational records shall comply with the family
33 educational and privacy rights act of 1974 (20 United States Code section
34 1232g) and shall ensure the ability of the juvenile court to effectively
35 serve, before adjudication, the juvenile whose records are released. Nothing
36 in this subsection shall be considered to prevent the juvenile court from
37 adjudicating a juvenile prior to receiving educational records pursuant to
38 this subsection.

39 E. A SCHOOL DISTRICT MAY RELEASE PUPIL ATTENDANCE, DISCIPLINARY AND
40 OTHER EDUCATIONAL RECORDS TO A LAW ENFORCEMENT AGENCY AND COUNTY ATTORNEY
41 PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT AMONG THE SCHOOL DISTRICT, LAW
42 ENFORCEMENT AGENCY, COUNTY ATTORNEY AND OTHER STATE, LOCAL OR TRIBAL
43 GOVERNMENT AGENCIES TO CREATE A LOCAL OR TRIBAL GOVERNMENTAL JUVENILE JUSTICE
44 NETWORK FOR THE PURPOSE OF:

1 1. PROVIDING APPROPRIATE PROGRAMS AND SERVICES TO INTERVENE WITH
2 JUVENILES CURRENTLY INVOLVED IN THE JUVENILE JUSTICE SYSTEM.

3 2. PROVIDING APPROPRIATE PROGRAMS AND SERVICES DESIGNED TO DETER
4 AT-RISK JUVENILES FROM DROPPING OUT OF SCHOOL OR OTHER DELINQUENT BEHAVIOR.

5 3. INCREASING THE SAFETY AND SECURITY OF THE COMMUNITY AND ITS
6 CHILDREN BY REDUCING JUVENILE CRIME.

7 F. EDUCATIONAL RECORDS PROVIDED PURSUANT TO AN INTERGOVERNMENTAL
8 AGREEMENT ENTERED INTO PURSUANT TO SUBSECTION E SHALL BE USED SOLELY FOR THE
9 PURPOSES OF THE AGREEMENT AND SHALL NOT BE DISCLOSED TO ANY OTHER PARTY,
10 EXCEPT AS PROVIDED BY LAW.

11 Sec. 2. Section 15-341, Arizona Revised Statutes, is amended to read:

12 15-341. General powers and duties; immunity; delegation

13 A. The governing board shall:

14 1. Prescribe and enforce policies and procedures for the governance
15 of the schools, not inconsistent with law or rules prescribed by the state
16 board of education.

17 2. Maintain the schools established by it for the attendance of each
18 pupil for a period of not less than one hundred seventy-five school days or
19 two hundred school days, as applicable, or its equivalent as approved by the
20 superintendent of public instruction for a school district operating on a
21 year-round operation basis, to offer an educational program on the basis of
22 a four day school week or to offer an alternative kindergarten program on the
23 basis of a three day school week, in each school year, and if the funds of
24 the district are sufficient, for a longer period, and as far as practicable
25 with equal rights and privileges.

26 3. Exclude from schools all books, publications, papers or audiovisual
27 materials of a sectarian, partisan or denominational character.

28 4. Manage and control the school property within its district.

29 5. Acquire school furniture, apparatus, equipment, library books and
30 supplies for the use of the schools.

31 6. Prescribe the curricula and criteria for the promotion and
32 graduation of pupils as provided in sections 15-701 and 15-701.01.

33 7. Furnish, repair and insure, at full insurable value, the school
34 property of the district.

35 8. Construct school buildings on approval by a vote of the district
36 electors.

37 9. Make in the name of the district conveyances of property belonging
38 to the district and sold by the board.

39 10. Purchase school sites when authorized by a vote of the district at
40 an election conducted as nearly as practicable in the same manner as the
41 election provided in section 15-481 and held on a date prescribed in section
42 15-491, subsection E, but such authorization shall not necessarily specify
43 the site to be purchased and such authorization shall not be necessary to
44 exchange unimproved property as provided in section 15-342, paragraph 23.

1 11. Construct, improve and furnish buildings used for school purposes
2 when such buildings or premises are leased from the national park service.

3 12. Purchase school sites or construct, improve and furnish school
4 buildings from the proceeds of the sale of school property only on approval
5 by a vote of the district electors.

6 13. Hold pupils to strict account for disorderly conduct on school
7 property.

8 14. Discipline students for disorderly conduct on the way to and from
9 school.

10 15. Except as provided in section 15-1224, deposit all monies received
11 by the district as gifts, grants and devises with the county treasurer who
12 shall credit the deposits as designated in the uniform system of financial
13 records. If not inconsistent with the terms of the gifts, grants and devises
14 given, any balance remaining after expenditures for the intended purpose of
15 the monies have been made shall be used for reduction of school district
16 taxes for the budget year, except that in the case of accommodation schools
17 the county treasurer shall carry the balance forward for use by the county
18 school superintendent for accommodation schools for the budget year.

19 16. Provide that, if a parent or legal guardian chooses not to accept
20 a decision of the teacher as provided in section 15-521, paragraph 3, the
21 parent or legal guardian may request in writing that the governing board
22 review the teacher's decision. Nothing in this paragraph shall be construed
23 to release school districts from any liability relating to a child's
24 promotion or retention.

25 17. Provide for adequate supervision over pupils in instructional and
26 noninstructional activities by certificated or noncertificated personnel.

27 18. Use school monies received from the state and county school
28 apportionment exclusively for payment of salaries of teachers and other
29 employees and contingent expenses of the district.

30 19. Make an annual report to the county school superintendent on or
31 before October 1 each year in the manner and form and on the blanks
32 prescribed by the superintendent of public instruction or county school
33 superintendent. The board shall also make reports directly to the county
34 school superintendent or the superintendent of public instruction whenever
35 required.

36 20. Deposit all monies received by school districts other than student
37 activities monies or monies from auxiliary operations as provided in sections
38 15-1125 and 15-1126 with the county treasurer to the credit of the school
39 district except as provided in paragraph 21 of this subsection and sections
40 15-1223 and 15-1224, and the board shall expend the monies as provided by law
41 for other school funds.

42 21. Establish a bank account in which the board may during a month
43 deposit miscellaneous monies received directly by the district. The board
44 shall remit monies deposited in the bank account at least monthly to the

1 county treasurer for deposit as provided in paragraph 20 of this subsection
2 and in accordance with the uniform system of financial records.

3 22. Employ an attorney admitted to practice in this state whose
4 principal practice is in the area of commercial real estate, or a real estate
5 broker who is licensed by this state and who is employed by a reputable
6 commercial real estate company, to negotiate a lease of five or more years
7 for the school district if the governing board decides to enter into a lease
8 of five or more years as lessor of school buildings or grounds as provided
9 in section 15-342, paragraph 7 or 10. Any lease of five or more years
10 negotiated pursuant to this paragraph shall provide that the lessee is
11 responsible for payment of property taxes pursuant to the requirements of
12 section 42-11104.

13 23. Prescribe and enforce policies and procedures for disciplinary
14 action against a teacher who engages in conduct which is a violation of the
15 policies of the governing board but which is not cause for dismissal of the
16 teacher or for revocation of the certificate of the teacher. Disciplinary
17 action may include suspension without pay for a period of time not to exceed
18 ten school days. Disciplinary action shall not include suspension with pay
19 or suspension without pay for a period of time longer than ten school
20 days. The procedures shall include notice, hearing and appeal provisions for
21 violations which are cause for disciplinary action. The governing board may
22 designate a person or persons to act on behalf of the board on these matters.

23 24. Prescribe and enforce policies and procedures for disciplinary
24 action against an administrator who engages in conduct which is a violation
25 of the policies of the governing board regarding duties of administrators but
26 which is not cause for dismissal of the administrator or for revocation of
27 the certificate of the administrator. Disciplinary action may include
28 suspension without pay for a period of time not to exceed ten school days.
29 Disciplinary action shall not include suspension with pay or suspension
30 without pay for a period of time longer than ten school days. The procedures
31 shall include notice, hearing and appeal provisions for violations which are
32 cause for disciplinary action. The governing board may designate a person
33 or persons to act on behalf of the board on these matters. For violations
34 which are cause for dismissal, the provisions of notice, hearing and appeal
35 in chapter 5, article 3 of this title shall apply. The filing of a timely
36 request for a hearing suspends the imposition of a suspension without pay or
37 a dismissal pending completion of the hearing.

38 25. Notwithstanding section 13-3108, prescribe and enforce policies and
39 procedures that prohibit a person from carrying or possessing a weapon on
40 school grounds unless the person is a peace officer or has obtained specific
41 authorization from the school administrator.

42 26. Prescribe and enforce policies and procedures relating to the
43 health and safety of all pupils participating in district sponsored practice
44 sessions, games or other interscholastic athletic activities, including the
45 provision of water. A school district and its employees are immune from

1 civil liability for the consequences of the good faith adoption and
2 implementation of policies and procedures pursuant to this paragraph.

3 27. Prescribe and enforce policies and procedures regarding the smoking
4 of tobacco within school buildings. The policies and procedures shall be
5 adopted in consultation with school district personnel and members of the
6 community and shall state whether smoking is prohibited in school buildings.
7 If smoking in school buildings is not prohibited, the policies and procedures
8 shall clearly state the conditions and circumstances under which smoking is
9 permitted, those areas in a school building which may be designated as
10 smoking areas and those areas in a school building which may not be
11 designated as smoking areas.

12 28. Establish an assessment, data gathering and reporting system as
13 prescribed in chapter 7, article 3 of this title.

14 29. Provide special education programs and related services pursuant
15 to section 15-764, subsection A to all children with disabilities as defined
16 in section 15-761.

17 30. Administer competency tests prescribed by the state board of
18 education for the graduation of pupils from high school.

19 31. Secure insurance coverage for all construction projects for
20 purposes of general liability, property damage and workers' compensation and
21 secure performance and payment bonds for all construction projects.

22 32. Keep on file the resumes of all current and former employees who
23 provide instruction to pupils at a school. Resumes shall include an
24 individual's educational and teaching background and experience in a
25 particular academic content subject area. A school district shall inform
26 parents and guardians of the availability of the resume information and shall
27 make these THE RESUME INFORMATION available for inspection on request of
28 parents and guardians of pupils enrolled at a school. Nothing in this
29 paragraph shall be construed to require any school to release personally
30 identifiable information in relation to any teacher or employee including the
31 teacher's or employee's address, salary, social security number or telephone
32 number.

33 33. Report to local law enforcement AGENCIES any suspected crimes CRIME
34 against persons A PERSON or property THAT IS A SERIOUS OFFENSE AS DEFINED BY
35 SECTION 13-604 OR THAT INVOLVES A DEADLY WEAPON OR DANGEROUS INSTRUMENT OR
36 SERIOUS PHYSICAL INJURY and any incidents CONDUCT that could potentially
37 threaten the safety or security of pupils, teachers or administrators POSES
38 A THREAT OF DEATH OR SERIOUS PHYSICAL INJURY TO EMPLOYEES, STUDENTS OR ANYONE
39 ON THE PROPERTY OF THE SCHOOL. A school district and its employees are
40 immune from liability for any good faith actions taken in furtherance of this
41 paragraph. FOR THE PURPOSES OF THIS PARAGRAPH, "DANGEROUS INSTRUMENT",
42 "DEADLY WEAPON" AND "SERIOUS PHYSICAL INJURY" HAVE THE SAME MEANING
43 PRESCRIBED IN SECTION 13-105. THIS PARAGRAPH DOES NOT LIMIT OR PRECLUDE THE
44 REPORTING BY A SCHOOL DISTRICT OR AN EMPLOYEE OF A SCHOOL DISTRICT OF
45 SUSPECTED CRIMES OTHER THAN THOSE REQUIRED TO BE REPORTED BY THIS PARAGRAPH.

1 34. In conjunction with local law enforcement AGENCIES and local
2 medical facilities, develop an emergency response plan for each school in the
3 school district in accordance with minimum standards developed jointly by the
4 department of education and the division of emergency management within the
5 department of emergency and military affairs.

6 35. Annually assign at least one school district employee to
7 participate in a multihazard crisis training program developed or selected
8 by the governing board.

9 B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this
10 section, the county school superintendent may construct, improve and furnish
11 school buildings or purchase or sell school sites in the conduct of an
12 accommodation school.

13 C. If any school district acquires real or personal property, whether
14 by purchase, exchange, condemnation, gift or otherwise, the governing board
15 shall pay to the county treasurer any taxes on the property that were unpaid
16 as of the date of acquisition, including penalties and interest. The lien
17 for unpaid delinquent taxes, penalties and interest on property acquired by
18 a school district:

19 1. Is not abated, extinguished, discharged or merged in the title to
20 the property.

21 2. Is enforceable in the same manner as other delinquent tax liens.

22 D. The governing board may not locate a school on property that is
23 less than one-fourth mile from agricultural land regulated pursuant to
24 section 3-365, except that the owner of the agricultural land may agree to
25 comply with the buffer zone requirements of section 3-365. If the owner
26 agrees in writing to comply with the buffer zone requirements and records the
27 agreement in the office of the county recorder as a restrictive covenant
28 running with the title to the land, the school district may locate a school
29 within the affected buffer zone. The agreement may include any stipulations
30 regarding the school, including conditions for future expansion of the school
31 and changes in the operational status of the school that will result in a
32 breach of the agreement.

33 E. A school district's governing board members and its school council
34 members are immune from civil liability for the consequences of adoption and
35 implementation of policies and procedures pursuant to subsection A of this
36 section and section 15-342. This waiver does not apply if the school
37 district's governing board members or its school council members are guilty
38 of gross negligence or intentional misconduct.

39 F. A governing board may delegate in writing to a superintendent,
40 principal or head teacher the authority to prescribe procedures that are
41 consistent with the governing board's policies.

42 G. Notwithstanding any other provision of this title, a school
43 district governing board shall not take any action that would result in an
44 immediate reduction or a reduction within three years of pupil square footage
45 that would cause the school district to fall below the minimum adequate gross

1 square footage requirements prescribed in section 15-2011, subsection C,
2 unless the governing board notifies the school facilities board established
3 by section 15-2001 of the proposed action and receives written approval from
4 the school facilities board to take the action. A reduction includes an
5 increase in administrative space that results in a reduction of pupil square
6 footage or sale of school sites or buildings, or both. The sale of equipment
7 that results in an immediate reduction or a reduction within three years that
8 falls below the equipment requirements prescribed in section 15-2011,
9 subsection B is subject to commensurate withholding of school district
10 capital outlay revenue limit monies pursuant to the direction of the school
11 facilities board. Except as provided in section 15-342, paragraph 10,
12 proceeds from the sale of school sites, buildings or other equipment shall
13 be deposited in the school plant fund as provided in section 15-1102.

14 H. Subsections C through F of this section apply to a county board of
15 supervisors and a county school superintendent when operating and
16 administering an accommodation school.

APPROVED BY THE GOVERNOR JUNE 4, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 4, 2002.



Passed the House April 9, 2002,

by the following vote: 53 Ayes,

0 Nays, 7 Not Voting

Jake Flake
Speaker of the House
Pro Tempore

Norman L. Fyfe
Chief Clerk of the House

Passed the Senate April 30, 2002,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

Randall Smith
President of the Senate

Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2421

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 20, 2002,

by the following vote: 52 Ayes,

2 Nays, 6 Not Voting

Jack Flake
Speaker of the House
Norman L. Moore
Pro Tempore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13 day of May, 2002.

at 8:13 o'clock A M.

Sandra Ramirez
Secretary to the Governor

Approved this 4th day of

June, 2002,

at 10:27 o'clock A M.

Jan McEwen
Governor of Arizona

H.B. 2421

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of June, 2002,

at 5:31 o'clock P M.

Debra Bayless
Secretary of State